

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D. C. 20554

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FEDERAL COMMUNICATIONS COMMISSION

In the Matter of )  
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Implementation of Sections 3(n) and 332 ) GN Docket No. 93-252  
of the Communications Act, Regulatory )  
Treatment of Mobile Services )

To: The Commission

REPLY COMMENTS OF DIAL PAGE, INC.  
ON FURTHER NOTICE OF PROPOSED RULE MAKING

Gerald S. McGowan  
George L. Lyon, Jr.  
LUKAS, MCGOWAN, NACE  
& GUTIERREZ, CHARTERED  
1819 H Street, N. W.  
Seventh Floor  
Washington, D. C. 20006  
(202) 857-3500

Its Attorneys

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### **Summary**

In its Further Notice of Proposed Rule Making, the Commission stated that "[p]erhaps the most basic technical rules in our mobile services regulations are those that govern the amount of radio spectrum assigned to licensees in each service and the geographic area to be served by each licensee." Further Notice at 15. Dial Page agrees that the determination of these two elements -- spectrum assignment and service area definition -- is essential before any additional modifications can be made to the rules governing the provision of commercial mobile radio services ("CMRS") to achieve regulatory symmetry and promote fair competition among CMRS providers. Therefore, in these reply comments, Dial Page supports the compromise proposal developed through industry negotiations and provides additional comments on how best to achieve a regulatory framework to facilitate the assignment on an MTA basis of a block of spectrum for enhanced specialized mobile radio service ("ESMR"). Specifically, Dial Page supports in concept the industry compromise proposal for adopting a single 200 channel block ESMR license per each MTA. In addition, Dial Page expands on the comments advanced by other parties with respect to proposed modifications of certain related technical and compliance rules. Lastly Dial Page, reiterates its opposition to imposition of a general CMRS spectrum cap and responds to certain ill-advised proposals to limit the amount of 800 MHz spectrum which may be aggregated by ESMR providers.

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Dial Page, Inc. ("Dial Page"), by its attorneys and pursuant to Rule Section 1.415, submits its reply to the comments filed in response to the Commission's Further Notice of Proposed Rule Making in the above-captioned proceeding.<sup>1/</sup>

**I. Introduction.**

1. As Dial Page stated in its opening comments, it is a Delaware corporation which itself and through various subsidiaries provides Public Land Mobile Service ("PLMS"), Private Carrier Paging Service ("PCP"), and Specialized Mobile Radio Service ("SMR") throughout the southern United States. Dial Page Comments at 1. Through its wholly owned subsidiary, Dial Call, Inc., Dial Page has made a substantial investment in SMR service and is constructing an enhanced SMR system ("ESMR") throughout the southern United States to compete with the established duopoly cellular carriers in the region. Id.

2. More than 1,000 pages of comments were submitted by some 60 commenting parties. The extensive comments submitted in this

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<sup>1/</sup> See Regulatory Treatment of Mobile Services, FCC 94-100, 59 Fed. Reg. 28042, 9 FCC Rcd \_\_\_\_ (May 20, 1994) ("Further Notice").

proceeding indicate the vibrancy and dynamism of the industry. They also indicate the critical importance of this proceeding, which will set the rules by which the commercial mobile radio industry will operate into the 21st century.

3. The comments address issues relating to all segments of the mobile communications industry. However, in light of its substantial investment in the ESMR industry, Dial Page will focus this reply on certain issues which are particularly critical to the needs of this subset of the industry and of its subscribers. These issues, discussed in detail below, include those relating to ESMR block licensing, certain technical and compliance rules, and spectrum caps.

**II. The Commission should adopt the ESMR industry's consensus proposal for block licensing.**

4. In its opening comments, Dial Page endorsed in principal the Commission's proposals with respect to the public interest benefits of the block licensing of ESMR spectrum, but requested the Commission to defer adopting any specific licensing scheme until the industry had the opportunity to develop by consensus a workable licensing blueprint. Dial Page Comments at 7. The various comments submitted clearly support the need for the licensing of a contiguous block of frequencies if ESMR service is to become a meaningful competitor to cellular and PCS. See, e.g., Nextel

Comments at 6-20; Pittencrieff Comments at 5-8; OneComm Comments at 3-6; AMTA Comments at 14-15.<sup>2/</sup>

5. It appears now that an industry consensus proposal has been developed for wide area ESMR block licensing. The essential components of this proposal, which Dial Page endorses, provide for existing ESMR licensees in each Major Trading Area ("MTA") to designate, after negotiation, one system operator for the 200 contiguous channel block running from channels 401-600 (861.0125-865.9875 MHz).<sup>3/</sup> Following a block license grant, existing SMR licensees on these frequencies would face mandatory relocation at the discretion of the ESMR licensee. The ESMR licensee would not be limited to this block of frequencies, nor would other SMR licensees be prohibited from establishing any type of digitally enhanced wide area service offering.

6. Through its adoption of this block licensing proposal, the Commission would provide a regulatory mechanism for those companies which have invested in ESMR technology to transition to a licensing scheme comparable to other broadband CMRS providers. A clear block of contiguous channels could be achieved within the existing 800 MHz SMR allocation by "retuning" other existing SMR

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<sup>2/</sup> Very few commenters appear to oppose the concept of block licensing for ESMR providers. Although The Southern Company ("Southern") argued for the retention of self-defined service areas for ESMR licensees, it appears to take that position only because it assumes a lack of adequate 800 MHz spectrum. See Southern Comments at 8-9. The industry consensus proposal discussed below clearly obviates that concern.

<sup>3/</sup> If such licensees are unable to reach agreement as to that licensee, the status quo would be maintained among the parties.

licensees to other equivalent 800 MHz channels, with the ESMR block licensee bearing the cost of retuning as Nextel's block licensing proposal outlined. See Nextel Comments at 11-15.<sup>4/</sup>

7. All eligible ESMR licensees (as defined below) must grant their approval for the entity which will be awarded the block license. Unless and until concurrence is reached, the parties would continue to operate under the relevant SMR rules. To ensure that only legitimate ESMR providers are eligible for the ESMR block license in an MTA, the Commission would limit eligibility to licensees with an ESMR (wide area) grant or pending ESMR application within the MTA as of August 10, 1994. In addition, an ESMR block license applicant must meet the criteria articulated in the December 23, 1992 letter from Private Radio Bureau Chief Ralph A. Haller to David E. Weisman, Esquire.

8. To avoid a "gold rush" of speculative ESMR filings between July 12, 1994 and August 10, 1994, Dial Page proposes the Commission establish a higher standard to obtain eligibility as an ESMR block licensee for those entities which do not now have an ESMR application granted or pending in a respective MTA. For those entities, Dial Page proposes that to be eligible for the ESMR block license within any particular MTA, an ESMR licensee (or applicant) must show that it has granted to it or pending at least 84 discrete

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<sup>4/</sup> Dial Page opposes the portion of Nextel's proposal advocating pro rata assignment of the 200 ESMR block channels (based upon an average number of revenue producing mobiles within an MTA) to multiple licensees within an MTA. The industry compromise proposal, which Dial Page understands Nextel now supports, would award that entire block following negotiation and agreement of the eligible ESMR licensees.

frequencies within that MTA. This should ensure that only those new applicants with a bona fide intent to provide ESMR service will be eligible to negotiate for the ESMR block license.

9. Commission adoption of this industry consensus proposal will allow ESMR operators the opportunity to reconfigure their systems to enable them to compete on a more equal footing with cellular and PCS licensees who enjoy contiguous, clean spectrum, and thus implement Congress's intent to achieve regulatory parity among CMRS providers.

### **III. Technical Rules and Compliance Issues.**

10. The various comments submitted raise a number of miscellaneous technical and compliance issues which deserve brief comment. These are discussed below.

11. **Technical Overview.** With the adoption and implementation of the suggestions contained here and in Dial Page's opening comments, ESMR service will eventually be in a position to be considered substantially similar to cellular and PCS service. Therefore, as a reclassified Part 90 service, ESMR should be subject to "comparable" technical requirements.

12. **Construction Requirements and Timetables.** Once an MTA based block licensing scheme as outlined in the previous section is adopted, ESMR licensees should be subject to a construction timetable establishing specified coverage requirements. Dial Page suggests that an ESMR block licensee be required to provide some service to its MTA within 18 months of grant of its block license, and that it be required to provide service to either 75 percent of



the area or population of the MTA within five years thereafter. The adoption of such a construction and service timetable will allow the Commission to eliminate for ESMR licensees the loading requirements now applicable to traditional SMR licensees. Additionally, the "40 mile rule" restriction would serve no purpose for ESMR licensees, which will generally need to design and construct systems in their service areas that use cellular-type, low power, closely spaced base stations.<sup>5/</sup>

13. **Base Station Modifications.** Once the Commission grants an ESMR block license within an MTA, the licensee should be allowed to construct and modify base stations within the MTA without additional Commission approval. Systems using cellular-type low power base stations and frequency reuse technologies are highly dynamic and require constant modification to respond to system expansion requirements and shifting demand patterns. Unnecessary regulatory requirements can slow a provider's response to changing system demands. A need for prior Commission approval within an already authorized service area will likely cause service degradation while serving no real public interest purpose. Dial Page thus supports the Commission's efforts in the Part 22 Rewrite Proceeding (CC Docket 92-115), to allow additional minor

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<sup>5/</sup> Indeed, whether or not an ESMR licensee is awarded the block grant, the 40 mile and loading rules should not apply.

In addition to supporting elimination of the Part 90 "loading" rules, Dial Page agrees with those commenters which have argued that the Part 22 "need demonstration" rules have outlived their usefulness and should be repealed. See Comments of Personal Communications Industry Associates ("PCIA") at 17.

modifications to be made by Part 22 service providers permissively and to eliminate the requirement of Commission notification in most instances. See Revision of Rule Part 22, 7 FCC Rcd 3658, 3660-61 & nn. 17-18 (1992). The Commission should afford the same level of flexibility to the ESMR licensee within an authorized MTA service area. Examples of permissible system modifications within an MTA would include additions of channels within the granted block of frequencies, changes in antenna types and configurations, increases or decreases in power levels (assuming no extension of service contours outside the MTA service area), station relocations and additions. Moreover, even with respect to those activities which the Commission continued to classify as "major," licensees should be able to commence modification and construction provided they comply with applicable environmental and aviation hazard rules.

14. **Control Channels.** Nextel in its comments supports the Commission making a universal designation of certain frequencies as control channels. (Nextel Communications, Inc. Comments at 43.) Dial Page opposes such Commission action. With ESMR technology still in the developmental stage, the control channel issue should be resolved via industry consensus and not arbitrarily mandated in this proceeding.

15. **License Term.** Dial Page supports those comments in favor of an uniform 10 year license term for CMRS providers. See, e.g. Pittencrieff Communications, Inc. Comments 11-15.

16. **System-Wide Call Sign.** As made clear by a number of commenters, a necessary corollary of adopting a block licensing

scheme for ESMR, is the establishment of one ESMR system call sign per MTA. See, e.g., Pittencrieff Comments at 13. Dial Page now holds hundreds of individual SMR licenses, each having its own call sign. The sheer task of tracking these various licenses is an administrative burden which siphons off resources Dial Page would otherwise employ to further expedite implementation of ESMR service to the public. The elimination of single site licenses and the adoption of system wide call signs is necessary to achieve regulatory parity among mobile service providers.

17. **Fees.** Review of the various comments submitted demonstrates that ESMR systems which are granted block licenses should be subject to the appropriate common carrier fee schedule; otherwise, however, they should be subject to the current private radio fee schedule. As it now stands, the Commission's fee schedule is particularly unfair to ESMR licensees, which may hold hundreds of individual licenses, a minimum of one per site and often as many as ten to 20 licenses at one location. Each modification to each site, no matter how minor, each pro forma assignment, and each renewal application, requires a separate fee. As discussed above, cellular (and PCS once authorized) licensees will have the benefit of one call sign per system and will pay only one fee. True regulatory parity requires that the cost of regulatory compliance be equalized among the services. Until that is done with the adoption of a single call sign, the Commission should not impose the higher per unit costs of the common carrier fee structure on previously private radio licensees. In fact, the

Commission should grant such licensees rate relief in the case of high fee applications, such as modifications to wide area filings and mass assignments applications.

18. **Application Form.** Dial Page does not object to the proposed FCC Form 600, with appropriate modifications, as suggested by several commenters. However, Dial Page believes it is now premature to finalize the form before the Commission revises its rules to implement regulatory parity among CMRS providers. Dial Page suggests that following the adoption of rules to implement regulatory parity, the Commission issue a further notice of proposed rulemaking specifically to address the application form. On a related matter, Dial Page agrees with those commenters who have suggested that the application form be made machine readable to expedite processing, and that procedures be implemented for the electronic filing of applications.<sup>6/</sup>

19. **Equal Employment Opportunity ("EEO") Rules.** The Commission's oversight of broadcast and cable EEO compliance is premised on the nexus that such compliance is related to ensuring diversification in program content. See NAACP v. Federal Power Commission, 425 U.S. 662, 670, n.7 (1976). That concern is irrelevant with respect to common carrier licensees. Moreover, unlike the Mass Media and Cable Services Bureaus, the Common Carrier Bureau takes no active EEO oversight position. Requiring

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<sup>6/</sup> See PCIA Comments at 40. This will, in turn, facilitate the electronic storage and retrieval of FCC station files and eliminate any need to continue the cumbersome process of filing microfiche copies of applications.

licensees to file reports no one regularly reviews wastes their time, and serves no useful purpose for this Commission. Since common carrier licensees are subject to the jurisdiction of the Equal Employment Opportunity Commission and applicable state and local human rights commissions, this Commission should defer to those expert agencies, their reporting requirements and their remedies.

20. **Finder's Preference Program.** Dial Page agrees with the comments of Pittencrieff that the Commission should eliminate or modify the Finder's Preference Program. See Pittencrieff Comments at 17-18. Although the idea was initially appealing, it is clear that the program is out of control. Allegations of often minor deficiencies -- such as licensing at mistaken coordinates -- are being blown up to absurd proportions, threatening licensees with loss of license of an operating station. In other cases, allegations concerning activities occurring several license terms, *and licensees, back* threaten a station's continued existence. In no other service are licensees or bona fide purchasers subject to such risk. The program thus serves to inject uncertainty and instability into the industry, drying up financing sources, and is becoming a favored vehicle of speculators. Given the problems which have arisen with the program, Dial Page urges its abolition. Certainly at a minimum, Finder's Preference filings should be considered only with respect to matters occurring within the current license term and with respect to the current licensee; and minor matters, such as mistakes in coordinates, should not be the

basis for Finder's Preference filings.<sup>7/</sup> Bona fide purchasers of a station which is constructed and operating when assigned should not be subject to defending against Finder's Preference filings.

**IV. The Commission should decline to impose a general cap on CMRS spectrum.**

21. Dial Page, in its opening comments, strongly disagreed with any proposal to establish general limitations on the aggregation of CMRS spectrum, so-called spectrum caps. See Comments at 2-6. The overwhelming weight of the commenting parties' arguments confirms Dial Page's view that a spectrum cap is unwarranted and harmful.<sup>8/</sup> Those few parties favoring spectrum caps have failed to advance a compelling rationale to support such a restriction. For example, although American Personal Communications, Inc. ("APCI") appears to support a 40 MHz spectrum cap for the cellular, Personal Communications, and ESMR services, nowhere in its comments does APCI explain why such a restriction would be good policy. See APCI Comments at 1-4. And although Vanguard Cellular Systems, Inc. ("Vanguard") states it does not oppose a reasonable cap on CMRS spectrum held by one entity in a geographic area -- which it would place at 50 MHz -- it does not

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<sup>7/</sup> Instead, licensees should be afforded a liberal opportunity to identify and correct minor errors and inconsistencies through the normal course of system expansion and modifications.

<sup>8/</sup> See, e.g., American Mobile Telecommunications Association ("AMTA") Comments at 27-34; The Bell Atlantic Companies Comments at 9-12; Cellular Telephone Industry Association ("CTIA") Comments at 8-9; Comcast Corporation Comments at 3-13; GTE Corporation Comments at 18-21; McCaw Cellular Communications, Inc. Comments at 14-15; Motorola, Inc. Comments at 2-13; Nextel Comments at 28-35; OneComm Comments at 7-14; PCIA Comments at 15-16.

advance any argument which in fact supports such a cap. See Comments at 11-14.<sup>9/</sup>

22. Contrasting those parties' comments are the thoroughly reasoned discussions of Airtouch Communication, AMTA and Motorola, which persuasively demonstrate that legitimate concerns to promote competition do not require the imposition of a spectrum cap. The Airtouch comments, for example, include a detailed refutation of the proposition that control of extensive amounts of spectrum necessarily equates to market power.<sup>10/</sup> Instead, Airtouch shows that such a cap is likely to reduce the opportunity to benefit consumers through economies of scope (Comments at 13) and will likely distort or inhibit technological development by those firms in the best position to effect such advancements (Comments at 14). And to the extent any limitation on the accumulation of spectrum is necessary to ensure competition, as Motorola shows, existing

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<sup>9/</sup> On the other hand, Vanguard's arguments do make a compelling case that a 40 MHz cap is contrary to the public interest, and is unnecessary to promote competition in the CMRS marketplace.

<sup>10/</sup> Airtouch Comments, Attachment 2 at 5-8. Moreover, those same comments buttress the important point made by Dial Page that a five percent threshold for invocation of the spectrum cap unnecessarily restricts non-controlling investments in telecommunications enterprises and threatens to hamper technological investment and international competition. Id. Attachment 2 at 15, 20-23. Should a spectrum cap be adopted, Airtouch would support raising the threshold to 20 percent, and applying a multiplier to minority interests such as the Commission follows with respect to its broadcast multiple ownership rule, Section 73.3555 Note 2(d). See id. Attachment 2 at 23. Dial Page believes that a more reasonable attribution level would be 40 percent, also with the application of a multiplier in the case of indirect minority interests.

service specific caps are sufficient to accomplish this objective. See Motorola Comments at 5-6.<sup>11/</sup>

23. A variant of the spectrum cap argument, advanced by certain parties, is that if the Commission imposes a spectrum cap, it must nevertheless include ESMR spectrum in that cap. See New Par Comments at 15-18; Sprint Comments at 3-4; Airtouch Comments at 7. However, none of these parties advance any arguments to support that position, other than a generalized argument that if a spectrum cap is to apply to cellular/PCS combinations, in fairness it should apply to ESMR, as a like service. Id. The problem with that argument, as Dial Page and others showed in their opening comments, is that although ESMR has the potential to offer a service competitive with cellular and PCS, it is currently far, far away from that point.

24. As AMTA points out, SMR spectrum is not comparable to cellular or PCS spectrum. See AMTA Comments at 30-32. Thus, SMR licensees cannot be considered to have broadband spectrum grants over geographically defined areas. Unlike the cellular and PCS services, SMR licensees have not had geographically defined market areas or "clean" frequencies. SMR systems have had to co-exist with facilities operated by numerous third-party licensees which are entitled to full interference protection. Because of interference protection requirements, SMR licensees have no assurance of use of frequencies at nearby sites. They must aggregate *non-contiguous* spectrum on a site-by-site, frequency-by-

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<sup>11/</sup> See also AMTA Comments at 28-29.



frequency basis, protecting co-channel licensees, and complying with rules crafted for dispatch service providers. As the Commission has acknowledged, these limitations on SMR spectrum aggregation "impose constraints on the ability of [ESMR licensees] to provide an array of competitive CMRS services that do not exist where spectrum is licensed in contiguous blocks." See Further Notice at para. 96.

25. Although, as discussed above, Dial Page expects this proceeding to craft a regulatory scheme to facilitate the block licensing of ESMR providers, such a scheme will require considerable time to implement. It is inappropriate even to consider including ESMR under a spectrum cap when the licensing scheme under which the service operates is not now comparable to the cellular and PCS services.<sup>12/</sup> Moreover, even given the adoption of the industry consensus plan set forth above, it is clear that ESMR licensees will have vastly less spectrum than any cellular or PCS licensee. Given this fact, it may be necessary for the development of economies of scale for there to be cross-ownership between ESMR and PCS or cellular licensees. Indeed, at this instant, there exists only two ESMR systems in limited commercial operation, following years of planning and development. The

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<sup>12/</sup> Situations such as that a particular channel may be used in part of an ESMR provider's service area, but not in the remaining portion because of the need to protect nearby co-channel licensees, make the calculation of ESMR spectrum for purposes of a spectrum cap problematic. Moreover, how to determine the appropriate area over which to apply such a cap to ESMR providers presents yet another thorny problem when it is considered that ESMR providers may render contiguous service to very large expanses of territory.

industry is in a critical stage of development. As AMTA explains (Comments at 32), imposition on ESMR operators of a spectrum cap is likely to inhibit adequate financing of such ventures and diminish the opportunity for ESMR actually to become a competitive service to cellular and PCS.

26. Even more dangerous to the ability of the fledgling ESMR industry to compete against the established duopoly cellular industry and the soon to be licensed Personal Communications Service, are the proposals of The Southern Company and Brown and Schwaninger ("B&S") to limit ESMR operators to a small amount of 800 MHz spectrum.

27. Southern, which claims it is developing an ESMR system itself, proposes to limit ESMR operators to seven megahertz (140, 25 MHz channel pairs) of frequency, one-half the 800 MHz SMR category spectrum. (Southern Comments at 3-4, 16-19 & n.2.) In support, Southern attaches to its comments a study prepared in January 1994 by the consulting firm of Booz, Allen & Hamilton entitled, "Assessing Network Economics of SMR Services" ("Southern Study").

28. The Southern Study purports to analyze the economics of ESMR system design and implementation, and concludes (1) that "an SMR operator requires a minimum of 80 channels to have sufficient capacity to compete in the market for mobile telephony" (Southern Study at 6), and (2) that "the overall character of the network capital scale curve is such that a 'knee' in this curve exists between 70 and 140 frequencies" (Southern Study at 1), and thus no

significant economics of scale are realized at accumulations of channels above 140. Based upon a proper analysis, it is easily seen that these two key conclusions are fundamentally in error.

29. Dial Page strongly opposes Southern's proposal for a 140 channel cap on ESMR spectrum. One hundred forty channels do not provide sufficient capacity, at a competitive cost-structure, for ESMR to provide competition to the cellular duopolies in significant urban markets. Indeed, tellingly absent from Southern's Study is any discussion of the significantly larger numbers of channels allocated to both cellular and PCS licensees, and an explanation of why those allocations are justified -- if they are -- while ESMR providers do not need such extensive spectrum grants.<sup>13/</sup> Southern's proposal would therefore curb competition in the market for CMRS services.

30. Southern fails to understand the fundamental need for ESMRs to accumulate sufficient numbers of channels to achieve the economies of scale necessary to provide wireless services that are cost-competitive with cellular and the soon to be licensed PCS service. Given ESMR's spectrum and other competitive disadvantages

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<sup>13/</sup> In its decision establishing the cellular service the Commission determined that 20 MHz of spectrum was required for a spectrally efficient cellular system. Cellular Communications Systems, 89 F.C.C.2d 58, 61 & n.5 (1982). Later the Commission determined that an additional five megahertz per system allocation was necessary to maintain service quality. 900 MHz Reserve Band Allocations, 61 Rad. Reg. 2d (P&F) 165, 173-74 (1986). Southern's Comments do not even address these decisions.

vis-a-vis cellular, as previously noted by the Commission,<sup>14/</sup> these economies of scale are critical to the competitive success of the nascent ESMR market entry.

31. The Southern Study, although generally (with a few key exceptions) applying a reasonable methodology, relies upon several erroneous factual assumptions and hypotheses, including severely understated estimates of ESMR infrastructure costs, which lead to a drastically understated assessment of ESMR channel requirements. Indeed, the Southern Study's cost estimates do not conform to presently existing ESMR equipment contracts. In addition, several of the Southern Study's other assumptions, including those about cell sites, channel efficiency, frequency reuse and subscriber intensity, are inconsistent with those generally used by ESMR companies in designing and implementing network build-outs, and with ESMR operating experience to date.<sup>15/</sup>

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<sup>14/</sup> See Regulatory Treatment of Mobile Services, 9 FCC Rcd 1411, 1469 (1994) (ESMR companies who seek to compete with cellular and PCS "face significant competitive disadvantages" due to substantially less spectrum allocations than cellular or PCS).

<sup>15/</sup> In fact, Southern's ESMR channel cap appears inconsistent with other of its proposals. Its study assumes the availability of 140 channels throughout an ESMR licensee's service area. (See Southern Study at 2-9). Yet, Southern would count against the 140 channel cap any frequency used anywhere within a licensee's service area (Comments at 16 n. 15), even if it generally was not available throughout that area. And Southern would maintain licensee designated service areas, which could include huge expanses of territory (Comments at 8-9). The result of this combination of poorly thought out policies would be to limit an ESMR licensee's system in any one natural market to substantially fewer than the 140 channels Southern suggests as an appropriate cap.

32. Substituting correct cost assumptions and more appropriate network engineering parameters for Southern's unjustified assumptions shows the Southern Study's conclusions are clearly erroneous. Specifically, ESMR companies will need significantly more than Southern's suggested 140 channels to have sufficient capacity to compete with cellular in major urban markets (without even considering what additional spectrum is needed to achieve a competitive cost structure). Moreover, there is no "knee" in the economies of scale achieved through channel accumulation at levels between 70 and 140 channels. The economies of scale are constant and continue through accumulations of channels up to 210, 280, 350 and beyond. Thus, Southern's Study does not provide any technological or engineering support for Southern's proposal to cap ESMR spectrum at 140 channels.

33. B&S argues that the Commission should limit the number of channels any ESMR may hold to the following formula: the number of channels which would permit the concurrent operation of three ESMR operators, minus an additional number of channels to allow all existing SMR operators to increase their number of frequencies by 20 percent. (B&S Comments at 18). This would appear to allow an ESMR provider to aggregate only approximately two megahertz of spectrum to compete against 25 MHz cellular carriers and 30 and 10 MHz PCS carriers. In brief, for the same reasons as discussed above concerning Southern's proposal, the B&S proposal would render ESMR carriers unable to compete effectively against cellular and PCS licensees. It should not, therefore, be adopted.

34. Lastly, Dial Page notes and endorses the near universal view that narrowband services, such as paging, should not be included in any general spectrum cap the Commission might be tempted to adopt. See, e.g., Airtouch comments at 7.

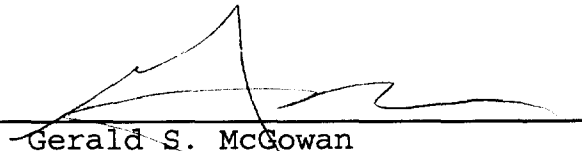
**V. Conclusion.**

35. In sum, Dial Page supports in concept the industry compromise proposal for adopting a single 200 channel block ESMR license per each MTA. In addition, Dial Page supports modification of certain related technical and compliance rules as set forth herein. Lastly, Dial Page, reiterates its opposition to imposition of a general CMRS spectrum cap and other ill-advised proposals to limit the amount of 800 MHz spectrum which may be aggregated by ESMR providers.

Respectfully submitted,

**DIAL PAGE, INC.**

By: \_\_\_\_\_

  
Gerald S. McGowan  
George L. Lyon, Jr.  
Its Attorneys

Lukas, McGowan, Nace & Gutierrez, Chartered  
1819 H Street, NW, 7th Floor  
Washington, D.C. 20006

(202) 857-3500

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